

Agency Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	78.50	78.50	82.50	82.50	78.50	82.50	4.00	5.10%
Personal Services	3,840,273	4,453,859	4,962,772	4,971,075	8,294,132	9,933,847	1,639,715	19.77%
Operating Expenses	1,334,922	5,521,177	1,988,519	2,316,470	6,856,099	4,304,989	(2,551,110)	(37.21%)
Benefits & Claims	10,152,855	7,549,814	11,498,655	11,498,655	17,702,669	22,997,310	5,294,641	29.91%
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$15,328,050	\$17,524,850	\$18,449,946	\$18,786,200	\$32,852,900	\$37,236,146	\$4,383,246	13.34%
State Special	15,328,050	17,524,850	18,449,946	18,786,200	32,852,900	37,236,146	4,383,246	13.34%
Other	0	0	0	0	0	0	0	n/a
Total Funds	\$15,328,050	\$17,524,850	\$18,449,946	\$18,786,200	\$32,852,900	\$37,236,146	\$4,383,246	13.34%

Agency Description

Agency Mission

The mission of the State Auditor's Office is to assure compliance with the Montana insurance and securities laws, promote captive insurance formations, administer the Insure Montana program, and assist consumers with complaints involving the securities and insurance industries. In addition, the office strives to keep abreast of regional and national developments in those industries in order to inform state policy makers about needed statutory changes and to answer inquiries.

The Office of the State Auditor is authorized under Article VI of the Montana Constitution. The State Auditor is the ex-officio Commissioner of Insurance and Securities and is responsible for licensing and regulating insurance companies and agents, and registering and regulating securities dealers in the state. The auditor also adopts rules and administers reform for the insurance and securities industries operating in the state. The auditor also serves as a member of the Board of Land Commissioners and the Crop Hail Insurance Board.

The statutory duties of the State Auditor are administered from three divisions: Central Services, Insurance, and Securities. The State Auditor's Office is also a conduit for the Fire and Police Retirement Program, a "pass through" program. The Fire and Police Retirements Program funds are from general insurance (33-2-705, MCA) and fire insurance premium taxes (50-3-109, MCA). Funding for this program is disbursed from the general fund. In FY 2008, \$21.2 million went to the Municipal Police Officers' Retirement System, Firefighters' Unified Retirement System, the Volunteer Fighters' Compensation Act, local fire department relief associations, municipalities with police department trust funds, and local police pension funds for supplemental benefits.

Agency Highlights

State Auditor's Office Major Budget Highlights	
♦	The executive requests a total funding increase of 13.3 percent in the 2011 biennium from the 2009 biennium including \$4.1 million in present law requests in addition to statewide present law and new proposals adding 3.00 FTE and related costs
♦	Elected official proposals request additional funding of \$16.5 million in the 2011 biennium for a number of initiatives including new office space, staff market adjustments, and an expansion of Insure Montana

Major LFD Issues
<ul style="list-style-type: none"> ◆ A change in how Insure Montana premium assistance payments are calculated would allow more persons to be served ◆ Insure Montana is not taking advantage of premium assistance savings possible through IRS section 125 plans ◆ Program goals were not presented with measureable objectives

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- o Goals, objectives and year-to-date outcomes from the 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

Any issues related to goals and objectives raised by LFD staff are located in the program section.

Elected Official Proposals

In addition to the Governor's proposed budget, the State Auditor's Office has a number of proposals for consideration by the legislature. Some of the proposals have been consolidated by type or edited for brevity. These proposals are not included in the executive budget, the descriptive tables, or the decision packages presented for the agency's programs.

1. New Office Space- The State Auditor's Office current 10 year lease started on January 15, 2000 and will terminate January 31, 2010. The State Auditor is requesting \$202,089 in FY 2010 and \$346,433 in FY 2011 of additional state special revenue for moving costs in FY 2010 and increased rent in FY 2011. The following table details the funding request by program and funding source.

Personal Services Market Adjustment State Auditor's Office			
Program	Fund Source	Fiscal 2010	Fiscal 2011
Central Services Division	SSR	\$53,010	\$62,003
	SSR	12,394	14,497
Subtotal		65,404	76,500
Insurance Division	SSR	479,607	511,196
Securities	SSR	<u>102,055</u>	<u>110,138</u>
Total		<u>\$647,066</u>	<u>\$697,834</u>

2. Personal Services Market Adjustment- The State Auditor is requesting \$647,066 in FY 2010 and \$697,834 in FY 2011 of additional state special revenue in order to bring current positions to the agency's average target market ratio of 102 percent of the 2008 market survey. The agency requests the funding in order to attract qualified new employees to difficult-to-fill positions, to retain existing employees, and to provide a 4 percent pay adjustment in FY 2011 for exempt staff not participating in Pay Plan 20. The following table details the funding request by program and funding source.

Personal Services Market Adjustment State Auditor's Office			
Program	Fund Source	Fiscal 2010	Fiscal 2011
Central Services Division	SSR	\$53,010	\$62,003
	SSR	12,394	14,497
Subtotal		65,404	76,500
Insurance Division	SSR	479,607	511,196
Securities	SSR	<u>102,055</u>	<u>110,138</u>
Total		<u>\$647,066</u>	<u>\$697,834</u>

3. Transfer of Staff and Related Expenses From Insurance and Securities Programs to Central Services Program.- The State Auditor is requesting to transfer \$507,765 in FY 2010 and \$507,765 in FY 2011 for 8.00 FTE and related operating costs to the Central Services program, from the Insurance program and the Securities program. The net financial impact of the request is zero. This proposal would consolidate the appropriate employees in the Central Services program based on their job functions and complies with the 2008 legislative audit recommendation regarding the payment of personnel from the correct budget program. The following table details the funding request by program and funding source.

Transfer of staff and related expenses from Insurance and Securities programs to Central Services State Auditor's Office				
Program	FTE	Fund Source	Fiscal 2010	Fiscal 2011
Central Services Division	8.0	SSR	\$411,544	\$411,544
		SSR	<u>\$96,221</u>	<u>\$96,221</u>
Subtotal			\$507,765	\$507,765
Insurance Division	(6.0)	SSR	(401,403)	(401,403)
Securities	(2.0)	SSR	<u>(106,362)</u>	<u>(106,362)</u>
Total	<u>0</u>		<u>\$0</u>	<u>\$0</u>

4. Expansion of Insure Montana and Addition of FTE – The State Auditor is requesting \$6,554,112 in FY 2010 and \$7,612,084 in FY 2011 of additional state special revenue to fund an increase in the purchasing pool portion and add 1.00 FTE and related costs to the Insure Montana program. Currently, the Insure Montana board has limited the premium amount used to calculate premium assistance payments to the 2007 rates. The program currently maintains approximately 600 businesses on a waiting list to participate in the program. The State Auditor's Office proposes that the additional funding would allow the removal of the premium assistance limits and allow enrollment of the businesses on the waiting list. Statute currently states that funding for the program is to be divided on a 60-40 percentage basis between the purchasing pool and the tax credit functions respectively. The additional funding for the purchasing pool only would cause an imbalance in this formula and require a change to the statute. The agency has also proposed alternatives to the proposal including:
- \$4,782,692 in FY 2010 and 4,779,117 in FY 2011 of additional state special revenue to add the additional businesses currently on the waiting list at the limited benefit rate

- \$757,888 in FY 2010 and \$1,353,067 in FY 2011 of additional state special revenue to remove the restricted benefit level for existing businesses only
- Substitute general fund for all or a portion of any alternative

For further information on Insure Montana, please see the Insurance Division section.

5. New FTE for Insure Montana- The State Auditor is requesting \$45,045 in FY 2010 and \$42,470 in FY 2011 in state special revenue for 1.00 new FTE and related operating costs. The 2008 legislative audit reported that the program has weak internal control procedures including the lack of verification of information reported on the Insure Montana application forms that are used to determine participant eligibility and the monthly assistance or tax credit amounts. The new FTE would primarily perform case file audits to address this deficiency.
6. Insurance Rates Actuary Analyst New FTE- The State Auditor requests \$87,325 in FY 2010 and \$84,610 in FY 2011 of state special revenue for 1.00 FTE and related operating costs. Agency actuaries review rate filings, provide actuarial analysis for the office's financial examiners and market conduct examiners, oversee the production of rate comparison guides for certain insurance products, and provide other services.
7. Captive Insurance Exams New FTE- The State Auditor requests \$86,447 in FY 2010 and \$83,734 in FY 2011 for 1.0 FTE and related operating costs to support the anticipated growth of the captive insurance program.

Additional Elected Official Proposals State Auditor's Office				
Proposal Number and Description	FTE	Fund Source	Fiscal 2010	Fiscal 2011
New FTE for Insure Montana	1.0	SSR	\$27,627	\$25,482
		SSR	18,418	16,988
Total			<u>\$46,045</u>	<u>\$42,470</u>
Insurance Rates Actuary Analyst New FTE	1.0	SSR	\$87,325	\$84,610
Captive Insurance Exams New FTE	1.0	SSR	\$86,447	\$83,734

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- o **Agency Market** - The State Auditor's Office presently hires individuals for entry into a position at between 80-85 percent of market relative to the 2008 market survey. By the end of FY 2008 the agency had an approximate market ratio of 100 percent relative to the 2006 market survey. After implementation of HB13 adjustments the agency achieved an approximate market ration of 90 percent relative to the 2008 market survey. The agency has a target ratio for the 2011 biennium of 102 percent relative to the 2008 market survey. In order to achieve the agency's target ratio it will use vacancy savings and elected official proposals for additional funding. As an elected official, the State Auditor has a number of appointed staff members that are exempt from the agency's overall target market percentage and therefore not included in the calculations here
- o **Obstacles** – The agency's only reported obstacle in achieving their target market ratio is the ability to secure appropriations

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2011 Biennium Budget			
Agency Program	State Spec.	Grand Total	Total %
01 Central Management	\$ 1,610,087	\$ 1,610,087	4.32%
03 Insurance	33,622,810	33,622,810	90.30%
04 Securities	2,003,249	2,003,249	5.38%
Grand Total	<u>\$ 37,236,146</u>	<u>\$ 37,236,146</u>	<u>100.00%</u>

This agency is funded with both general fund and state special revenue. The general fund is limited to a number of pass-through payments the State Auditor is statutorily required to make and are listed in the statutory appropriations table. State special revenue is derived from fees imposed on insurance policies written in the state of Montana, licensing, registration and audit fees from individuals and organizations dealing in securities in the state and a portion of the state tobacco tax. Funding included in the table does not include the elected official proposals.

Statutory Appropriations

The following table shows the total statutory appropriations associated with this agency. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the legislature. The table is provided so that the legislature can get a more complete picture of agency operations and associated policy.

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

Statutory Appropriations State Auditor's Office					
Purpose	MCA #	Fund Source	Fiscal 2008	Fiscal 2010	Fiscal 2011
<i>No Direct Bearing on Agency Operations</i>					
State portion of police retirement system	19-9-702	GF	\$9,451,808	\$10,785,000	\$11,419,000
Firefighters Unified Retirement system	19-13-604	GF	9,568,388	11,561,000	12,377,000
Volunteer firefighters pension	19-17-301	GF	1,562,019	1,764,000	1,874,000
Local fire department relief associations	19-18-512	GF	345,020	376,000	393,000
Municipal police retirement	19-19-305	GF	278,517	304,000	317,000
Municipal police supplemental retirement	19-19-506	GF	<u>22,601</u>	<u>25,000</u>	<u>26,000</u>
Total			<u>\$21,228,353</u>	<u>\$24,815,000</u>	<u>\$26,406,000</u>

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	15,328,050	15,328,050	30,656,100	82.33%
Statewide PL Adjustments	0	0	0	0.00%	1,020,811	994,248	2,015,059	5.41%
Other PL Adjustments	0	0	0	0.00%	1,864,251	2,236,436	4,100,687	11.01%
New Proposals	0	0	0	0.00%	236,834	227,466	464,300	1.25%
Total Budget	\$0	\$0	\$0		\$18,449,946	\$18,786,200	\$37,236,146	

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	10.00	10.00	10.00	10.00	10.00	10.00	0.00	0.00%
Personal Services	444,468	596,646	600,732	600,910	1,041,114	1,201,642	160,528	15.42%
Operating Expenses	117,281	87,054	204,947	203,498	204,335	408,445	204,110	99.89%
Total Costs	\$561,749	\$683,700	\$805,679	\$804,408	\$1,245,449	\$1,610,087	\$364,638	29.28%
State Special	561,749	683,700	805,679	804,408	1,245,449	1,610,087	364,638	29.28%
Total Funds	\$561,749	\$683,700	\$805,679	\$804,408	\$1,245,449	\$1,610,087	\$364,638	29.28%

Program Description

The Central Management Division is responsible for the administrative, personnel, budgeting, and accounting functions for the State Auditor's Office. The division also provides support to the auditor in fulfilling the duties as a member of the state land and hail insurance boards.

Program Highlights

Central Services Division Major Budget Highlights	
♦	The executive requests a funding increase of 29.3 percent in the 2011 biennium from the 2009 biennium due to statewide present law and requested increase in general expenditures above base budget amounts.
♦	Elected official proposals request the transfer of 8.00 FTE and related costs to Central Services from other divisions
Major LFD Issues	
♦	Program goals were presented without measurable objectives

Program Narrative

The Central Management Division provides support functions for the major divisions of the Office of the State Auditor. In prior biennia, some of the activities and FTE that were fulfilling central management type duties were being funded through the budgets of the Securities and Insurance divisions. The State Auditor, an elected official, has proposed that a number of FTE and related costs be transferred to the Central Management Division in order to ensure that expenses are paid from the correct budget as recommended by the Legislative Audit Committee. Please see details of the requested proposal in the agency section of this report.

Goals and Objectives

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- Goals, objectives and year-to-date outcomes from the 2009 biennium
- Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals Monitored

This program had no goals that were monitored by the legislature during the 2009 biennium

2011 Biennium Major Goals

Goal:

- o Expand and improve the features offered by the State Auditor's Office website as a way to increase government efficiency.

**LFD
ISSUE**

Goals are Presented Without Objectives

The identified goal was submitted by the program without objectives. Objectives are the specific steps that are used to achieve the over arching outcome stated by the goal. Without these objectives the program is without direction in its everyday functions with relation to achieving the goal. This means that the program potentially risks expending resources in activities that do nothing to further the attainment of the goals.

The legislature may want to discuss with the agency how the goals it has provided for this program contribute to the overall outcomes desired. The legislature may also wish to discuss what measurable objectives would help the program achieve those goals and how they relate to the budget request.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table Central Management							
Program Funding		Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000	Total State Special Funds	\$ 561,749	100.0%	\$ 805,679	100.0%	\$ 804,408	100.0%
	02235 Insurance Fee Account	549,330	97.8%	653,038	81.1%	651,413	81.0%
	02283 Securities Fee Account	12,419	2.2%	152,641	18.9%	152,995	19.0%
Grand	Total	\$ 561,749	100.0%	\$ 805,679	100.0%	\$ 804,408	100.0%

This program is funded entirely from state special revenue derived from fees imposed on insurance policies written in the state of Montana, licensing, registration and audit fees from individuals and organizations dealing in securities in the state and a portion of the state tobacco tax. The Central Management Division uses direct HB 2 appropriation rather than a proprietary fund in order to fund expenditures related to the administrative support functions that the program provides for the other divisions of the agency.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	561,749	561,749	1,123,498	69.78%
Statewide PL Adjustments	0	0	0	0.00%	187,746	178,489	366,235	22.75%
Other PL Adjustments	0	0	0	0.00%	55,608	63,671	119,279	7.41%
New Proposals	0	0	0	0.00%	576	499	1,075	0.07%
Total Budget	\$0	\$0	\$0		\$805,679	\$804,408	\$1,610,087	

Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
-----Fiscal 2010-----					-----Fiscal 2011-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				177,234					177,416
Vacancy Savings				(20,970)					(20,974)
Inflation/Deflation				347					421
Fixed Costs				31,135					21,626
Total Statewide Present Law Adjustments				\$187,746					\$178,489
DP 101 - CSD Annual Rent Increase									
0.00	0	9,544	0	9,544	0.00	0	17,607	0	17,607
DP 102 - CSD - Base Adj									
0.00	0	46,064	0	46,064	0.00	0	46,064	0	46,064
Total Other Present Law Adjustments									
0.00	\$0	\$55,608	\$0	\$55,608	0.00	\$0	\$63,671	\$0	\$63,671
Grand Total All Present Law Adjustments				\$243,354					\$242,160

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- o **Market Rate** - The program reports that there were no specific difficulties in following the agency policy regarding target market ratio and progression to market. By the end of FY 2008 the program had an approximate market ratio of 100 percent relative to the 2006 market survey. After the implementation of HB 13 adjustments, the program estimates that its current market ratio is approximately 89 percent relative to the 2008 market survey. The program currently hires employees new to state government at between 80-85 percent of market. There are some exceptions made for applicants due to experience or qualifications. Agency policy is followed regarding progression to market
- o **Vacancy** - The State Auditor’s Office did not have a notable amount of turnover in most positions, but the program did experience difficulties attracting qualified applicants for certain specialized positions due to outside market competition factors that have contributed to specific position vacancies. To aid in offsetting the factors that contribute to the program vacancies, the agency’s pay plan does include the potential for pay exceptions, retention pay increases and flexible work hours. Additional authority generated through vacancies was used to fund pay adjustments
- o **Legislatively applied vacancy savings** – In order to achieve the legislatively applied vacancy savings, the program held vacant positions open
- o **Pay Changes** - The program reports that it made a number of pay changes outside of those given in HB 13 in order to address internal pay equity. These increases were funded through the use of prior year carry forward and transferring funding from other budgeted expenditure categories and other programs within the agency
- o **Retirements** - This program had no eligible employees retire in the 2009 biennium. The program has four employees who will be eligible for full retirement in the 2011 biennium at an anticipated compensated absence liability of \$78,048

DP 101 - CSD Annual Rent Increase - Included in the executive budget is \$9,544 in FY 2010 and \$17,607 in FY 2011 of state special revenue to fund a scheduled 2 percent rent increase in FY 2010 and an estimated 3 percent rent increase in FY 2011.

DP 102 - CSD - Base Adj - This request of \$46,064 state special revenue each year of the biennium is for additional travel expenses. In FY 2008, three staff attended the National Association of Insurance Commissioners (NAIC) quarterly meetings and the expenditures are reimbursed by NAIC.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				Fiscal 2011				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 6101 - Fixed Cost Workers Comp Management Prgm Allocation										
01	0.00	0	576	0	576	0.00	0	499	0	499
Total	0.00	\$0	\$576	\$0	\$576	0.00	\$0	\$499	\$0	\$499

DP 6101 - Fixed Cost Workers Comp Management Prgm Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

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Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	55.50	55.50	59.50	59.50	55.50	59.50	4.00	7.21%
Personal Services	2,912,796	3,145,237	3,598,930	3,606,282	6,058,033	7,205,212	1,147,179	18.94%
Operating Expenses	1,088,078	5,199,262	1,549,222	1,871,066	6,287,340	3,420,288	(2,867,052)	(45.60%)
Benefits & Claims	10,152,855	7,549,814	11,498,655	11,498,655	17,702,669	22,997,310	5,294,641	29.91%
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$14,153,729	\$15,894,313	\$16,646,807	\$16,976,003	\$30,048,042	\$33,622,810	\$3,574,768	11.90%
State Special	14,153,729	15,894,313	16,646,807	16,976,003	30,048,042	33,622,810	3,574,768	11.90%
Other	0	0	0	0	0	0	0	n/a
Total Funds	\$14,153,729	\$15,894,313	\$16,646,807	\$16,976,003	\$30,048,042	\$33,622,810	\$3,574,768	11.90%

Program Description

The Insurance Division regulates the insurance industry in Montana. The Policyholder Services Unit is responsible for resolving insurance consumer inquiries and complaints involving agents, coverage, and companies. The Examinations Bureau is responsible for monitoring the financial solvency of insurance companies, collecting premium taxes and company fees, and auditing insurance company annual statements. Also housed in this bureau is the Captive Insurance program, which promotes and regulates captive insurers in the state. The Rates Bureau and the Forms Bureau are responsible for reviewing form filings and rate filings to ensure compliance with the applicable insurance code. The Licensing Bureau is responsible for licensing and providing continuing education to insurance agents, agencies, and adjusters. The Insure Montana Bureau administers the Small Business Health Insurance Purchasing Pool and Tax Credit program. The Legal Unit, which serves both the Insurance and Securities Divisions, provides legal support to the divisions. Investigations, which is under the Legal Unit, investigates code and rule violations, including possible criminal violations, and recommends referral of cases to county attorneys for prosecution.

Program Highlights

Insurance Division Major Budget Highlights	
♦	The executive requests \$3.6 million additional state special revenue authority primarily for present law adjustments in addition to statewide present law, and \$1.2 million annually to fund Insure Montana at the same level as the 2009 biennium
Major LFD Issues	
♦	Program goals were presented without measureable objectives
♦	A change in how Insure Montana premium assistance payments are calculated would allow more persons to be served
♦	Insure Montana is not taking advantage of premium assistance savings possible through IRS section 125 plans

Program Narrative

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- Goals, objectives and year-to-date outcomes from the 2009 biennium
- Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals Monitored

This program had no goals that were monitored by the legislature during the 2009 biennium

2011 Biennium Major Goals

Goal:

- To meet and exceed the sixty-day requirement for forms approval as set forth in 33-1-501(2) MCA

Goal:

- Complete Insure Montana case file audits, and to make necessary adjustments in tax credit computations and premium incentive and assistance payments.

LFD ISSUE	<p>Goals are Presented Without Objectives</p> <p>The identified goals were submitted by the program without objectives. Objectives are the specific steps that are used to achieve the over arching outcome stated by the goal. Without these objectives the program is without direction in its every day functions with relation to achieving the goal. This means that the program potentially risks expending resources in activities that do nothing to further the attainment of the goals. For example, the program could have an objective that states that 10 percent of the case file audits will be completed each month until all audits are completed. A second objective could state that subsequent to the original case file audit, each case file will be audited quarterly for program compliance and assistance calculation. In this way the program has a specific course of action to achieve the goal and a measureable way to maintain it.</p> <p>The legislature may want to discuss with the agency how the goals it has provided for this program contribute to the overall outcomes desired. The legislature may also wish to discuss what measurable objectives would help the program achieve those goals and how they relate to the budget request.</p>
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MCHA and Insure Montana

The following discusses the two programs in the agency designed to increase access to health insurance in Montana for those persons that would normally not have access to coverage due to income, employer, age, or a pre-existing medical condition. These programs are:

1. Insure Montana; and
2. Montana Comprehensive Health Association (MCHA)

Montana Comprehensive Health Association (MCHA)

The Montana legislature created the Montana Comprehensive Health Association (MCHA) to establish a program through which health insurance could be made available to Montana residents who are otherwise considered uninsurable due to medical conditions, a preexisting health condition or a significant exclusion of coverage. MCHA is the “coverage of last resort” and is not intended to replace or duplicate coverage from any other source.

Coverage for members of the MCHA is provided through three plans:

- o Traditional plan
- o Portability plan
- o Premium assistance plan

MCHA Funding

The majority of the funding for the program comes directly from participant premium payments, a percentage of insurance premiums charged to health insurance providers in the state of Montana, and a state appropriation from a percentage of the interest from the Tobacco Settlement account. The following figure shows the projected funding for MCHA by expenditure and year:

Montana Comprehensive Health Association			
Estimated Funding			
Source	Fiscal 2008	Fiscal 2010	Fiscal 2011
Individual Premiums	\$16,279,271	\$16,479,098	\$16,479,098
Insurance premium fees	7,439,909	7,531,233	7,531,233
Tobacco settlement appropriation	824,173	925,614	925,614
Total Funding	<u>\$8,264,082</u>	<u>\$8,456,847</u>	<u>\$8,456,847</u>

As of June 30, 2008 the total enrollment in MCHA plans were as follows:

- o Traditional plan: 1,357
- o Premium assistance plan: 251
- o Portability plan: 1,384

Insure Montana

The Office of the State Auditor administers the Insure Montana Program, which is a voluntary program to provide assistance to small businesses to provide health insurance for their employees, whether they have provided health insurance previously or not. The program is governed by a board of directors. The program assists through:

- o Employer premium payments
- o Assistance to employees to pay a portion of premium costs
- o Tax credits for employers for a portion of the costs of health insurance they provide to their employees

Although Insure Montana has a stated functional mission, they do not have any goals and objectives that are specific to the program. These goals and objectives could give the legislature a clearer understanding of the overall direction that the program is going and how they intend to use the funding they are requesting to get there. Some of the things that the program may want to discuss in its goals are:

- o Does the program want to provide some level of coverage for the most people or does it want to provide maximum coverage for a smaller number of people?
- o Does the program seek to have the employer eventually provide the insurance without subsidy or does it intend to have the participants continue indefinitely?
- o How does the program intend to deal with rising costs of premiums?
- o What does the program wish to see as the ultimate outcome of providing the assistance with respect to the investment of the funding by the state?

Insure Montana Funding

The tax credits for employers and the premium assistance to both employers and employees are funded with a portion of the tobacco tax increase approved via a 2004 ballot initiative. The following figure shows the actual, appropriated, and proposed expenditures of the tobacco tax from FY 2008 through the executive's proposed 2011 biennium budget. Statute states that 60 percent of the funding allocated to Insure Montana must be used to provide the premium assistance, and 40 percent for the tax credits.

Health and Medicaid Initiatives Fund Balance - 2011 Biennium Executive Budget Request					
Tobacco Tax Revenue Dedicated to Health Initiatives					
Fund Balance	Actual	Budgeted	Executive Budget Request		% of
Revenue/Expenditures	FY 2008*	FY 2009	FY 2010*	FY 2011*	Ttd
Beginning Fund Balance	\$47,397,697	\$50,283,077	\$43,020,758	\$29,631,415	41.9%
Revenue - Tobacco Tax*	<u>39,824,984</u>	<u>40,196,000</u>	<u>40,592,000</u>	<u>41,014,000</u>	<u>58.1%</u>
Total Revenue	\$87,222,681	\$90,479,077	\$83,612,758	\$70,645,415	100%
Expenditures					
<i>Medicaid Services - Provider Rate Increases and Service Expansions</i>					
Nursing Home Services	\$5,455,068	\$5,484,432	\$5,480,319	\$5,480,319	10.0%
Managed Care Bureau	5,187,530	5,134,353	5,187,530	5,187,530	19.4%
DD Medicaid Benefits	2,667,826	3,135,587	3,135,587	3,135,587	25.1%
Children's Mental Health Services	2,176,518	2,301,184	2,176,518	2,176,518	29.1%
Hospital and Clinical Services	822,569	1,070,253	1,822,569	1,822,569	32.4%
Senior/Physically Disabled Waiver	1,447,528	1,837,193	1,837,193	1,837,193	35.8%
Home-based Services	1,088,712	1,107,207	1,107,207	1,107,207	37.8%
Adult Mental Health Waiver	0	1,613,488	1,471,493	1,492,314	40.5%
Mental Health Medicaid	886,192	680,475	886,192	886,192	42.1%
Medicaid Pharmacy	753,823	46,930	753,823	753,823	43.5%
Acute Services	262,205	2,177,787	262,205	262,205	44.0%
Chemical Dependency Medicaid	194,625	207,753	194,625	194,625	44.3%
Breast and Cervical Cancer	5,171	19,100	5,171	5,171	44.3%
<i>Other Programs</i>					
Insure Montana (Premium Assistance)	5,618,763	6,525,413	6,557,168	6,558,167	56.3%
Elected Official-State Auditor Proposal**	0	0	6,581,739	7,637,566	70.2%
Health Insurance Tax Credits	4,028,570	4,350,286	4,370,344	4,372,113	78.1%
Elected Official-State Auditor Proposal**	0	0	18,418	16,988	78.1%
Big Sky Rx					
Medicare Part D Premium Assistance	2,534,524	6,579,486	5,772,755	5,774,966	88.6%
Pharmacist Program	9,455	353,063	236,297	236,298	89.1%
Mental Health Services Plan/HIFA	2,768,810	3,152,605	3,433,968	3,433,968	95.3%
CHIP	907,760	1,582,085	2,565,437	2,432,433	99.7%
Mental Health NonMedicaid	25,100	0	25,100	25,100	99.8%
Human and Community Services Div.	58,936	59,213	58,900	58,896	99.9%
Children's Special Health Services	25,685	25,766	25,684	25,684	99.9%
HRD Cost Allocated Administration	14,234	14,661	15,101	15,554	100.0%
Subtotal Expenditures	<u>36,939,604</u>	<u>47,458,320</u>	<u>53,981,343</u>	<u>54,928,986</u>	
Annual Change		28.5%	25.8%	15.7%	
Ending Fund Balance	<u>\$50,283,077</u>	<u>\$43,020,758</u>	<u>\$29,631,415</u>	<u>\$15,716,429</u>	

*Revenue based on estimates adopted by the Revenue and Transportation Oversight Committee.

**Statute would need to be amended in order to implement the State Auditor's new proposals.

Insure Montana Assistance Provided

Members pay a premium for the insurance provided through the pool, the cost for which is divided between the employer and the employee. Both the employer and the employee are entitled to a subsidy payment from the state for a portion of the premium payment depending on a number of factors including the plan offered and/or selected, the income of the employee, employee out-of-pocket expense, and dependant coverage. The amounts of the premium assistance payment are determined by Insure Montana staff as directed by the Insure Montana board.

Due to an increase in the cost of the premium to members of the pool, the Insure Montana board “capped” premium assistance payments by limiting the premium cost amount used to calculate the assistance payment to the 2007 premium cost rate. This payment cap was put in place to ensure that the total premium assistance payments would not exceed the appropriated funding for the program.

**LFD
ISSUE****Change in Premium Assistance Calculation to Reduce Costs**

Two significant changes could be made to the calculation of the premium assistance payment amounts in order to reduce the costs of the program if the legislature wishes to reduce premium assistance given to individual employees under the current methodology in order to provide assistance to more people; the application of the employer paid portion of employee's premium; and the assumption of pre-tax deduction of premium benefit under IRS section 125 rule.

Employer paid portion of employee's premium

In paying for the insurance for an employee, the employer has a minimum portion of the total premium that they must pay. This is the employer premium. The employer, at their option, may also pay some, none, or all of the employee portion of the total premium. Under the current premium assistance calculation that the program is using, the employee premium cost that is available for reimbursement is reduced by that portion of the employee's contribution that is paid for by the employer. This amount is then multiplied by an applied percentage rate based on a number of factors as described above in order to calculate the premium assistance payment to the employee.

Due to the application of the premium assistance cap, the program is using the 2007 premium rate for the premium assistance calculation rather than the current premium rate as directed by the Board, but they are also limiting the reduction for the additional employer contribution by the amount of what the 2007 additional contribution would have been rather than the actual amount the employer is contributing. By using the lesser 2007 amount, the program is overstating the premium assistance liability and overpaying the plan participants. The following table illustrates the different calculations:

Employer Contribution Rate Cap State Auditor's Office	
Program	
Assumptions	
Total current premium	\$700
Current amount of employee premium paid by employer	\$100
Total 2007 premium	\$500
2007 amount of employee premium paid by employer	\$70
Premium split	50/50
Premium assistance percentage	85%
Existing Calculaion	
Employee premium	\$350
Amount available for assistance (capped at 2007 rate)	\$250
Less employer contribution (at 2007 rate)	(\$70)
Available assistance subtotal	\$180
Multplied by premium assistance percentage	85%
Total premium assistance paid to employee	\$153
Total out of pocket expense for employee (employee premium less assistance)	<u>\$197</u>
Calculation without limit of employer contribution	
Employee premium	\$350
Amount available for assistance (capped at 2007 rate)	\$250
Less employer contribution	(\$100)
Available assistance subtotal	\$150
Multplied by premium assistance percentage	85%
Total premium assistance paid to employee	\$128
Total out of pocket expense for employee (employee premium less assistance)	<u>\$223</u>

**LFD
ISSUE (CONT.)**

As shown in the figure, by removing the restriction that limits the amount of the employer's contribution when calculating the premium assistance to the employee, the employer absorbs a portion of the premium cap and total premium assistance is reduced by 85 percent (the applied assistance percentage) of the additional amount the employer has contributed to the employee premium.

IRS Section 125 Pre-Tax Benefit Not Being Taken-

Section 125 of the IRS code allows the creation and maintenance of "cafeteria" plans. These plans allow employers to deduct certain types of employee benefits from their gross wages before the calculation of most state and federal taxes. The advantage to both the employee and the employer is a direct reduction in taxes paid. Additional benefit to the employee is a possible reduction in tax bracket due to reduced total taxable income. Because Insure Montana pays a portion of the employee share of the premium, the premium assistance to the employee should be reduced by an amount equal to the tax benefit received by the employee at the percentage of assistance provided by Insure Montana.

As stated earlier, Insure Montana pays a direct premium assistance payment to enrolled employees based on a number of factors including age, risk group, income, out of pocket premium expense, and employer contribution to the employee's portion of premium. The Insure Montana premium assistance payment is calculated by applying a percentage based on some of the factors listed above to the employee premium cost less any contributions to the employee share of the premium by the employer.

By utilizing the section 125 provision, the net income of the employee is increased by the dollar amount of the employee premium payment multiplied by the applicable tax rate because of the reduction in the total taxable income of the employee. Because Insurance Montana, and therefore the state, is subsidizing a portion of the employee premium, the program should absorb an equal portion of the tax savings generated through the section 125 plan. The following table illustrates the tax benefit of the IRS section 125 plan and its impact on premium assistance payments.

Section 125 Tax Benefit Insure Montana			
Item	No Section 125 Plan	With Section 125 Plan	Section 125 Tax Benefit
Gross Wages	\$1,500	\$1,500	
Health Insurance Premium (pre-tax)	<u>0</u>	<u>300</u>	
Taxable Wages	1,500	1,200	
<i>Taxes</i>			
FICA	115	92	\$23
Federal Income Tax	360	288	72
State Income Tax	<u>90</u>	<u>72</u>	<u>18</u>
Net Income	935	748	
<i>Deductions to Net Income</i>			
Health Insurance Premium (post-tax)	<u>300</u>	<u>0</u>	
Total Disposable Income	<u>\$635</u>	<u>\$748</u>	<u>\$113</u>
Current Premium Assistance at 85 Percent of Premium	\$255	\$255	
Reduction in Premium Assistance for Tax Benefit	<u>0</u>	<u>(96)</u>	
<i>reduction is equal to 85 percent of additional tax benefit due to use of section 125 provisions</i>			
Total Adjusted Disposable Income	<u>\$890</u>	<u>\$907</u>	
Cost to State for Insure Montana Premium Assistance	\$255	\$159	
Percentage Savings for State	0	37.7%	

Under the section 125 plan, gross wages are reduced by the employee portion of the health insurance premium, resulting in a lower taxable income. By applying the appropriate tax rates to the lower taxable income, the tax liability is reduced as a direct result of the deduction for the health insurance premium from gross income.

**LFD
ISSUE (CONT.)**

Without the 125 plan the health insurance premium is taken from net income, income that has already been taxed at a higher amount. The resulting disposable income, the amount of the employee's check, is lower than the employee would receive under the section 125 plan by the amount of tax benefit generated by taking the health insurance deduction from gross wages. Because Insure Montana is subsidizing the premium payment, it is entitled to a like portion of the monetary benefit generated by the section 125 plan. For example, if the tax benefit is \$100 and the portion of the premium being paid by Insure Montana is 80 percent, the premium assistance payment to the employee can be reduced by \$80. The net result to the employee, even with the reduction in premium assistance payment, is a higher total adjusted net income than if no section 125 plan was used.

Insure Montana contacted businesses enrolled in the program regarding section 125 plans. Of those contacted, 560 businesses responded and of those that responded 80 percent either already have or are implementing a section 125 plan, but Insure Montana is not assuming the tax benefits of any of these. Insure Montana currently has over four thousand members participating in plan coverage. As of February of 2008 the average premium assistance payment per employee per month was \$152.20

The legislature may want to consider a number of options regarding this issue prior to taking action on the proposed budget including:

1. Recommend that the Insure Montana Board require eligible employers to implement a Section 125 plan as a condition of continued program participation.
2. Recommend that the Insure Montana Board create rules that take into account the premium assistance reduction due to the pre-tax deduction provided by IRS section 125 of premium amounts, or
3. Recommend that the Insure Montana Board create rules that specifically define the calculation method of premium assistance.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table						
Insurance						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$ 14,153,729	100.0%	\$ 16,646,807	100.0%	\$ 16,976,003	100.0%
02235 Insurance Fee Account	3,666,190	25.9%	4,752,098	28.5%	5,063,527	29.8%
02528 Captive Account	16,033	0.1%	41,583	0.2%	56,582	0.3%
02769 Health Insurance Premium Assistance	5,618,763	39.7%	6,557,168	39.4%	6,558,167	38.6%
02770 Health Insurance Tax Credits	4,028,570	28.5%	4,370,344	26.3%	4,372,113	25.8%
02789 6901-Chip/Mcha Tobacco Sett Fd	824,173	5.8%	925,614	5.6%	925,614	5.5%
06000 Total Proprietary Funds	-	-	-	-	-	-
06020 Surplus Lines	-	-	-	-	-	-
Grand Total	\$ 14,153,729	100.0%	\$ 16,646,807	100.0%	\$ 16,976,003	100.0%

This program is funded entirely with state special revenue. Insure Montana is funded through an appropriation of a portion of the tobacco tax. This appropriation is divided 60-40 between premium assistance and tax credits, respectively. The Montana Comprehensive Health Association is funded from a portion of the tobacco settlement fund. The other functions of the program are funded from revenues derived from a percentage charge against every insurance policy sold in the state, as well as from charges for insurance company examinations and fees paid by individual agents.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	14,153,729	14,153,729	28,307,458	84.19%
Statewide PL Adjustments	0	0	0	0.00%	544,893	531,302	1,076,195	3.20%
Other PL Adjustments	0	0	0	0.00%	1,712,200	2,064,242	3,776,442	11.23%
New Proposals	0	0	0	0.00%	235,985	226,730	462,715	1.38%
Total Budget	\$0	\$0	\$0		\$16,646,807	\$16,976,003	\$33,622,810	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
-----Fiscal 2010-----						-----Fiscal 2011-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				618,421					626,023	
Vacancy Savings				(141,246)					(141,552)	
Inflation/Deflation				6,731					9,536	
Fixed Costs				60,987					37,295	
Total Statewide Present Law Adjustments				\$544,893	\$531,302					
DP 301 - Ins Annual Rent Increase	0.00	0	46,798	0	46,798	0.00	0	91,542	0	91,542
DP 302 - Ins - Exam Bureau - Annualize Captive Base	0.00	0	37,489	0	37,489	0.00	0	37,489	0	37,489
DP 303 - Ins - Rates Base Adj	0.00	0	4,428	0	4,428	0.00	0	5,800	0	5,800
DP 304 - Ins - Legal Base Adj	0.00	0	15,244	0	15,244	0.00	0	15,268	0	15,268
DP 305 - Ins - Investigations Base Adjustments	0.00	0	8,078	0	8,078	0.00	0	8,078	0	8,078
DP 306 - Ins - Forms Bureau Base Adj	0.00	0	15,166	0	15,166	0.00	0	15,166	0	15,166
DP 307 - Ins - Policyholder Services Bureau Base Adj	0.00	0	12,575	0	12,575	0.00	0	10,580	0	10,580
DP 308 - Ins - Contract Examinations	0.00	0	145,151	0	145,151	0.00	0	441,551	0	441,551
DP 309 - Ins - Captive Promotion	0.00	0	25,551	0	25,551	0.00	0	40,551	0	40,551
DP 310 - Ins - Licensing Base Adjustment	0.00	0	8,684	0	8,684	0.00	0	8,684	0	8,684
DP 317 - INS - Forms Analyst FTE	1.00	0	47,236	0	47,236	1.00	0	43,733	0	43,733
DP 318 - Restore Insure MT Funding	0.00	0	1,244,359	0	1,244,359	0.00	0	1,244,359	0	1,244,359
DP 319 - Restore MCHA Funding	0.00	0	101,441	0	101,441	0.00	0	101,441	0	101,441
Total Other Present Law Adjustments										
1.00	\$0	\$1,712,200	\$0	\$1,712,200	1.00	\$0	\$2,064,242	\$0	\$2,064,242	
Grand Total All Present Law Adjustments				\$2,257,093	\$2,595,544					

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** – The program reports that there were no specific difficulties in following the agency policy regarding target market ratio and progression to market. By the end of FY 2008 the program had an approximate market ratio of 100 percent relative to the 2006 market survey. After the implementation of HB 13 adjustments, the program estimates that its current market ratio is approximately 91 percent relative to the 2008 market survey. The program currently hires employees new to state government at between 80-85 percent of market. There are some exceptions made for applicants due to experience or qualifications
- **Vacancy** – While the turnover within the State Auditor's Office has not been high, the program did experience difficulties attracting qualified applicants for certain specialized positions due to outside market competition factors that have contributed to specific position vacancies. To aid in offsetting the factors that contribute to the program vacancies, the agency's pay plan does include the potential for pay exceptions, retention pay increases and flexible work hours
- **Legislatively applied vacancy savings** – In order to achieve the legislatively applied vacancy rate, the program held vacant positions open and transferred budget authority from other programs within the agency
- **Pay Changes** - The program reports that it made a number of pay changes outside of those given in HB 13 in order to address internal pay equity. These increases were funded through the use of prior year carry forward and transferring funding from other budgeted expenditure categories and other programs within the agency
- **Retirements** – This program had one employee retire in the 2009 biennium. The program has seven employees that will be eligible for full retirement in the 2011 biennium at an anticipated compensated absence liability of \$150,985

DP 301 - Ins Annual Rent Increase - Included in the executive budget is \$46,798 in FY 2010 and \$91,542 in FY 2011 of state special revenue to fund a scheduled 2 percent rent increase in FY 2010 and an estimated 3 percent rent increase in 2011.

DP 302 - Ins - Exam Bureau - Annualize Captive Base - This request of \$37,489 state special revenue for both FY 2010 and FY 2011 is to annualize the costs associated with hiring a new FTE in the Captive Insurance program during the base year. The 2007 Legislature authorized an additional 1.00 FTE once the number of captive companies reached 30. The new FTE was hired February 15, 2008. The statutes require the captive companies be examined every three years with the influx of exams scheduled driving the operating costs. The exam costs are recovered from the captive company and result in no cost to the state.

DP 303 - Ins - Rates Base Adj - This base adjustment request of \$4,428 in FY 2010 and \$5,800 in FY 2011 of state special revenue is for increased travel and training costs and to purchase specialized actuary books and minor software. The software is purchased biennially and occurs in the 1st year of the biennium.

DP 304 - Ins - Legal Base Adj - This request of \$15,244 in FY 2010 and \$15,268 in FY 2011 of state special revenue funding is for additional secured storage space, increased legal, travel, and education costs.

DP 305 - Ins - Investigations Base Adjustments - This request of \$8,078 for FY 2010 and FY 2011 of state special revenue is for increased travel and training costs for the Investigations Bureau.

DP 306 - Ins - Forms Bureau Base Adj - This request of \$15,166 each year of the biennium of state special revenue is for increased travel and training costs for the Forms Bureau.

DP 307 - Ins - Policyholder Services Bureau Base Adj - This request of \$12,575 in FY 2010 and \$10,580 in FY 2011 is for the Policyholder Services Unit for minor software purchase and increase travel for training and educational expenditures. The funding source is state special revenue.

DP 308 - Ins - Contract Examinations - The request is for \$145,151 in FY 2010 and \$441,551 in FY 2011 of state special revenue funding to enable the examination of insurers using contractor services. The cost of the exams done by contract examiners is recovered from the insurers and results in no cost to the state. The statutes require companies be examined every five years.

DP 309 - Ins - Captive Promotion - This request of \$25,551 for FY 2010 and \$40,551 for FY 2011 state special revenue is to annualize the costs associated with promoting captive insurance in Montana. The 2007 Legislature authorized a state special revenue fund called the captive insurance regulatory and supervision account, which may be referred to as the captive account per 33-28-120(1), MCA, effective October 1, 2007. The purpose of the captive account is to reimburse expenses in promoting captive insurance in Montana.

DP 310 - Ins - Licensing Base Adjustment - This request of \$8,684 each year of the biennium of state special revenue funding is for travel and fees associated with Securities and Insurance Licensing Association (SILA) training.

DP 317 - INS - Forms Analyst FTE - The budget includes \$47,236 in FY 2010 and \$43,733 in FY 2011 state special revenue funding for personal services and operating costs for 1.00 FTE to work in the Forms Bureau. The requested 1.00 FTE would work as a forms analyst and would help the bureau meet the statutory requirements of 33-1-501, MCA, which includes a "deemer" provision. This provision states that if, after 60 days from the date of receipt (of a filing) by the commissioner's office, the commissioner has not approved or disapproved the form by a notice, the form is considered approved by the insurer.

DP 318 - Restore Insure MT Funding - This request of \$1,244,359 state special revenue funding each year of the 2011 biennium restores funding for the Insure Montana Program to levels authorized by the 2007 legislature.

LFD COMMENT	Funding amount limits benefits to 2007 premium level- The Insure Montana board limited the premium amount for the calculation of premium assistance to the 2007 premium cost in order to ensure that the appropriated funds would be sufficient to make the projected payments to covered employees through the end of the 2009 biennium. This decision package funds the continuation of that level of payments, but does not account for increases in premium costs. Please see the agency section for the elected official proposal for further discussion.
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DP 319 - Restore MCHA Funding - This request of \$101,441 state special revenue funding each year of the 2011 biennium restores funding for the Montana Comprehensive Health Association to FY 2009 levels authorized by the 2007 legislature. This funding is derived from the state tobacco settlement payment distribution.

New Proposals

New Proposals										
Program	FTE	Fiscal 2010				FTE	Fiscal 2011			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 313 - Ins - Legal New FTE - RST										
03	1.00	0	87,871	0	87,871	1.00	0	84,313	0	84,313
DP 314 - Ins - Traditional Exams FTE										
03	1.00	0	85,607	0	85,607	1.00	0	84,282	0	84,282
DP 315 - Ins - Policyholder Service Bureau Claims Examiner										
03	1.00	0	60,976	0	60,976	1.00	0	56,808	0	56,808
DP 6101 - Fixed Cost Workers Comp Management Prgm Allocation										
03	0.00	0	1,531	0	1,531	0.00	0	1,327	0	1,327
Total	3.00	\$0	\$235,985	\$0	\$235,985	3.00	\$0	\$226,730	\$0	\$226,730

DP 313 - Ins - Legal New FTE - RST - This request for a restricted appropriation of \$87,871 in FY 2010 and \$84,313 in FY 2011 of state special revenue is for personal services and associated operating costs to hire an additional attorney in

the Insurance Division of the State Auditors Office. The Legal Unit currently has an employee that has frequently been on extended military leave as a member of the National Guard.

DP 314 - Ins - Traditional Exams FTE - This request is for \$85,607 in FY 2010 and \$84,282 in FY 2011 of state special revenue to fund 1.00 FTE and operating costs required to handle additional workload and to decrease reliance on contract examiners. This additional 1.00 FTE would require some period of training, and thereafter would be used to reduce a portion of the expected increase in exam costs.

DP 315 - Ins - Policyholder Service Bureau Claims Examiner - This proposal includes \$60,976 in FY 2010 and \$56,808 in FY 2011 state special revenue funding to support 1.00 FTE and operating costs to complete additional market conduct examinations and new analysis responsibilities. The Policyholder Services Bureau (PHS) is responsible for new projects assigned by the National Association of Insurance Commissioners (NAIC) to further improve and modernize the regulation of insurance. Montana has over 30 captive insurers which have been added in recent years. The captives that are risk retention groups will need to have market conduct examinations in addition to the approximately 30 instate or domiciled insurers who are statutorily required to be examined at least once every four years.

DP 6101 - Fixed Cost Workers Comp Management Prgm Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	13.00	13.00	13.00	13.00	13.00	13.00	0.00	0.00%
Personal Services	483,009	711,976	763,110	763,883	1,194,985	1,526,993	332,008	27.78%
Operating Expenses	129,563	234,861	234,350	241,906	364,424	476,256	111,832	30.69%
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$612,572	\$946,837	\$997,460	\$1,005,789	\$1,559,409	\$2,003,249	\$443,840	28.46%
State Special	612,572	946,837	997,460	1,005,789	1,559,409	2,003,249	443,840	28.46%
Total Funds	\$612,572	\$946,837	\$997,460	\$1,005,789	\$1,559,409	\$2,003,249	\$443,840	28.46%

Program Description

The Securities Division is responsible for the administration and enforcement of the Securities Act of Montana and, in particular, for the registration of securities issuers, sales people, broker-dealers, investment advisers, and investment adviser representatives and multi-level marketing companies. The division is also responsible for the investigation of unregistered and fraudulent securities transactions. The division has sole jurisdiction for investment advisor firms with assets of under \$25 million. The division investigates securities code and rule violations, including possible criminal violations, takes appropriate administrative action, and refers criminal cases to either federal authorities or county attorneys for prosecution.

Program Highlights

Securities Division Major Budget Highlights	
<ul style="list-style-type: none"> ◆ The executive requests an increase in total funding of 28.5 percent in the 2011 biennium from the 2009 biennium, primarily for statewide present law adjustments. The budget also includes: <ul style="list-style-type: none"> • A biennial appropriation request for securities exam cost adjustments • An annual rent increase 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ Program goals were presented without measurable objectives 	

Program Narrative

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- o Goals, objectives and year-to-date outcomes from the 2009 biennium
- o Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals Monitored:

This program had no goals that were monitored by the legislature during the 2009 biennium

2011 Biennium Major Goals:

Goal:

- o Make investor education available to all Montanans

Goal:

- o Perform timely review of firm and individual securities applications and approve only those firms and individuals that will serve the public's interest.

Goal:

- o Assist Montana businesses in accessing and raising equity capital

**LFD
ISSUE****Goals are Presented Without Objectives**

The identified goals were submitted by the program without objectives. Objectives are the specific steps that are used to achieve the over arching outcome stated by the goal. Without these objectives the program is without direction in its everyday functions with relation to achieving the goal. This means that the program potentially risks expending resources in activities that do nothing to further the attainment of the goals. Examples of objectives that are measureable and time-bound so that they provide the specific steps used to achieve the goal could include:

- o Add informational pages to the State Auditor's web site that describe the major types of investments offered in Montana and update those pages annually.
- o Offer a minimum of two no-charge monthly classes throughout the state that provide investor education
- o Publish and distribute 5000 copies of an annual handbook on issues related to securities investment in Montana

The legislature may want to discuss with the agency how the goals it has provided for this program contribute to overall outcomes desired. The legislature may also wish to discuss what measurable objectives would help the program achieve those goals and how they relate to the budget request.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table						
Securities						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
02000 Total State Special Funds	\$ 612,572	100.0%	\$ 997,460	100.0%	\$ 1,005,789	100.0%
02283 Securities Fee Account	612,572	100.0%	997,460	100.0%	1,005,789	100.0%
Grand Total	\$ 612,572	100.0%	\$ 997,460	100.0%	\$ 1,005,789	100.0%

This program is funded entirely with state special revenue. The department charges fees for examinations, audits, and licensure. Excess funding is transferred to the general fund.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	0	0	0	0.00%	612,572	612,572	1,225,144	61.16%
Statewide PL Adjustments	0	0	0	0.00%	288,172	284,457	572,629	28.59%
Other PL Adjustments	0	0	0	0.00%	96,443	108,523	204,966	10.23%
New Proposals	0	0	0	0.00%	273	237	510	0.03%
Total Budget	\$0	\$0	\$0		\$997,460	\$1,005,789	\$2,003,249	

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
	-----Fiscal 2010-----					-----Fiscal 2011-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					311,897					312,706
Vacancy Savings					(31,796)					(31,832)
Inflation/Deflation					222					238
Fixed Costs					7,849					3,345
Total Statewide Present Law Adjustments					\$288,172					\$284,457
DP 401 - Securities Annual Rent Increase	0.00	0	11,535	0	11,535	0.00	0	22,015	0	22,015
DP 402 - Securities - Exams Base Adjustments - BIEN	0.00	0	37,204	0	37,204	0.00	0	37,204	0	37,204
DP 403 - Securities - Base Adjustment	0.00	0	47,704	0	47,704	0.00	0	49,304	0	49,304
Total Other Present Law Adjustments	0.00	\$0	\$96,443	\$0	\$96,443	0.00	\$0	\$108,523	\$0	\$108,523
Grand Total All Present Law Adjustments					\$384,615					\$392,980

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- o **Market Rate** - The program reports that there were no specific difficulties in following the agency policy regarding target market ratio and progression to market. By the end of FY 2008 the program had an approximate market ratio of 95 percent relative to the 2006 market survey. After the implementation of HB 13 adjustments, the program estimates that its current market ratio is approximately 94 percent relative to the 2008 market survey. The program currently hires employees new to state government at between 80-85 percent of market. There are some exceptions made for applicants due to experience or qualifications.
- o **Vacancy** - While the turnover within the State Auditor's Office has not been high, the program did experience difficulties attracting qualified applicants for certain specialized positions due to outside market competition factors that have contributed to specific position vacancies. To aid in offsetting the factors that contribute to the program vacancies, the agency's pay plan does include the potential for pay exceptions, retention pay increases, and flexible work hours.
- o **Legislatively applied vacancy savings** - In order to achieve the legislatively applied vacancy rate, the program held vacant positions open.
- o **Pay Changes** - The program reports that it made a number of pay changes outside of those given in HB 13 in

order to address internal pay equity. These increases were funded through the use of prior year carry forward.

- o **Retirements** – Two employees of the program are eligible for full retirement in the 2011 biennium. The anticipated compensated absence liability for these retirements is \$31,866.

DP 401 - Securities Annual Rent Increase - Included in the budget is \$11,535 in FY 2010 and \$22,015 in FY 2011 of state special revenue to fund a scheduled 2 percent rent increase in FY 2010 and an estimated 3 percent rent increase in 2011.

DP 402 - Securities - Exams Base Adjustments - BIEN - This biennial request of \$74,408 state special revenue is to annualize the reimbursable costs associated with the Securities Division's responsibility for the oversight of roughly 1,400 broker/dealer firms, 750 investment advisory firms, and 75,000 securities salespersons and investment adviser representatives. The division processes applications from these entities and individuals and collects in excess of \$4.4 million in filing fees annually. The increase requested is to provide funding for the costs resulting from the number of applications filed and exams performed.

DP 403 - Securities - Base Adjustment - This request of \$47,704 in FY 2010 and \$49,304 in FY 2011 of state special revenue is to increase the budget for the costs associated with the estimated number of contract hearings officers and North American Securities Administrator's Association (NASAA) reimbursable related travel. The Securities Division uses contract services for the cost associated with hearings officers in contested securities cases.

New Proposals

New Proposals										
-----Fiscal 2010-----						-----Fiscal 2011-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 6101 - Fixed Cost Workers Comp Management Prgm Allocation										
04	0.00	0	273	0	273	0.00	0	237	0	237
Total	0.00	\$0	\$273	\$0	\$273	0.00	\$0	\$237	\$0	\$237

DP 6101 - Fixed Cost Workers Comp Management Prgm Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.